

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**MARTIN W. KINGSTON,**

**Plaintiff,**

**v.**

**CIVIL ACTION NO. 1:11CV20  
(Judge Keeley)**

**COMMISSIONER OF SOCIAL SECURITY,**

**Defendant.**

**ORDER ADOPTING MAGISTRATE JUDGE'S  
OPINION/REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. §636(b)(1)(B), Rule 72(b), Federal Rules of Civil Procedure and Local Court Rule 4.01(d), on February 28, 2011, the Court referred this Social Security action to United States Magistrate Judge John S. Kaull with directions to submit proposed findings of fact and a recommendation for disposition.

On August 9, 2011, Magistrate Judge Kaull filed his Report and Recommendation ("R&R"), and directed the parties, in accordance with 28 U.S.C. §636(b)(1) and Rule 6(e), Fed. R. Civ. P., to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the R&R. He further directed the parties that failure to file objections would result in a waiver of the right to appeal from the judgment of this Court. The parties did not file any objections.

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Upon consideration of Magistrate Judge Kaull's recommendation and having received no written objections,<sup>1</sup> the Court **ORDERS** that Magistrate Judge Kaull's R&R is accepted in whole and that this civil action be disposed of in accordance with the recommendation of the magistrate judge. Accordingly,

1. the Commissioner's motion for Summary Judgment (dkt. no. 17) is **GRANTED**;
2. the plaintiff's motion for Summary Judgment (dkt. no. 15) is **DENIED**; and
3. this civil action is **DISMISSED WITH PREJUDICE** and **RETIRED** from the docket of this Court.

Pursuant to Fed.R.Civ.P. 58, the Court directs the Clerk of Court to enter a separate judgment order and to transmit copies of to counsel of record.

DATED: October 21, 2011.

/s/ Irene M. Keeley

IRENE M. KEELEY

UNITED STATES DISTRICT JUDGE

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<sup>1</sup> Kingston's failure to object to the Report and Recommendation not only waives his appellate rights in this matter, but also relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).